

MATTHEW TIGHE, Individually and)
on behalf of all citizen electors of)
Erie County,)

Case No. 1:11-cv-266-SJM

V.

FRANKLIN TOWNSHIP and
DAVID G. HENDERSON, Individually
and in his official capacity as Zoning
and Code Enforcement Officer.

Defendants.

AND NOW, to wit, this 26th Day of June, 2012, the Defendants having filed in the above-captioned matter a motion to dismiss the complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) which relies on matters outside the pleadings.

1. The Defendants' pending motion to dismiss the complaint [6] shall be, and hereby is, DISMISSED without prejudice.
2. The parties shall have a period of one-hundred twenty (120) days, or until October 24, 2012, within which to complete any discovery related to the issues raised in the Defendants' motion to dismiss.

3. On or before November 23, 2012, the Defendants may reassert their motion as a motion for summary judgment pursuant to Federal Rule of Civil Procedure 56 and/or the Plaintiff may file a cross-motion for summary judgment, if appropriate. Such motion(s) shall be in compliance with Local Civil Rule 56(B).
4. On or before December 24, 2012, the non-movant may file an opposition to the motion for summary judgment in compliance with Local Civil rule 56(C).
5. On or before January 7, 2013, the movant may file a reply in support of the summary judgment motion in compliance with Local Civil Rule 56(D).

IT IS SO ORDERED.

s/ Sean J. McLaughlin

SEAN J. McLAUGHLIN
United States District Judge

Cm: All counsel of record.